

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
FOR THE CENTRAL DISTRICT OF CALIFORNIA
GREENBELT DIVISION

In RE: ANDREW LLOYD BARKER

Case No.: 2:22bk-136688-NB

Andrew Lloyd Barker,
ON BEHALF OF THE ESTATE
OF

ADVERSARY PROCEEDING
NO.

Andrew Lloyd Barker
Plaintiff, Relator, Ex Rel
16656 Calle Arbolada
Pacific Palisades, California
[90272]
(424) 291- 1490

*Declaratory and injunctive relief
under title 28 US code 2201 and
and 2202, title 15 US code.*

v.

*1641 (f); Action to Quiet title, and to
Trove, wrongful foreclosure, breach
of fiduciary duty, action of trespass.*

BROKER SOLUTIONS, INC. DBA
NEW AMERICAN FUNDING
14511 Myford Road, Suite 100
Tustin, California 92780
LOS ANGELES SHERIFF'S
DEPARTMENT,
EARTHSCAPE INVESTMENTS, INC.

TRIAL BY JURY

DOES 1 through 15, inclusive,
Defendants

I. JURISDICTION

1. This court has jurisdiction to hear this case because: (1.) The Federal Rules of
Bankruptcy Procedure at Rule 7001(2.) provides for a civil process to determine the validity,
priority or extent of a lien or other interest in property. The specific wording in the rule is as

1 follows: The following are adversary proceedings:..... (2) **a proceeding to determine the**
2 **validity, priority, or extent of a lien or other interest in property, other than a proceeding**
3 **under Rule 4003(d). The Plaintiff is Andrew Lloyd Barker, who is acting on behalf of the**
4 **bankruptcy estate in a fiduciary capacity and is seeking to obtain justice on behalf of the**
5 **Estate of the petition filer with reference to serious violations of the Truth in Lending Act**
6 **especially failure to disclose the identity of the Assignee of the note and Deed of Trust,**
7 **pursuant to The Truth In-Lending Act at Section 1641(g) and 1641(f) and an act of**
8 **wrongful foreclosure by BROKERS SOLUTIONS, INC. DBA NEW AMERICAN**
9 **FUNDING that has the effect of a stranger to the transaction foreclosing on the Debtors**
10 **property. The Plaintiff invokes Title 28, US Code, § 1367, which provides for the filing of state**
11 **law claims in a civil case filed in Federal court where they are related and part of the same**
12 **transaction and case or controversy.**

14 2. Rule 7001 also provides for injunctive relief in order to enforce the jurisdictional
15 powers exercised by the bankruptcy court as follows: (7) **a proceeding to obtain an injunction**
16 **or other equitable relief, except when a chapter 9, chapter 11, chapter 12, or chapter 13**
17 **plan provides for the relief;...**

19 3. In addition, Rule 7001 provides for declaratory relief for the Plaintiff in an adversary
20 proceeding, in order to assist in exercise of jurisdiction of any of the powers described in Rule
21 7001 as follows: (9) **a proceeding to obtain a declaratory judgment relating to any of the**
22 **foregoing; or.....(10) a proceeding to determine a claim or cause of action removed under**
23 **28 U.S.C. § 1452.**

25 4. Also, Title 15 US Code, Sections 1641(g) and 1641(f) can be invoked where the
26 Defendants have misrepresented their status or the extent of their claim. The Plaintiff/ Relator is
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1 a homeowner, whose rights have been set aside by certain court actions AND administrative
2 actions, including a non-judicial foreclosure and an Unlawful Detainer Case that was filed but
3 was never served upon me or my tenant that should never have been commenced based upon the
4 above facts alleged below. The Plaintiff is filing this civil case in the interest of urgency and to
5 prevent irreparable harm as a Relator on behalf of the Trustee until the Trustee takes a primary
6 role in this matter. The loss of a persons home is a traumatic event, especially when the loss is a
7 result of an unlawful act by a stranger to a mortgage transaction, in violation of the law, is widely
8 considered to be irreparable harm.
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10 **II. STATEMENT OF FACTS OF THE CASE**

11
12 5. The Defendants and all of them have deliberately and with malice raced at break-neck
13 speed towards foreclosure and eviction of the Plaintiffs from their home in absolute defiance of
14 several provisions of the Truth in Lending Act, at Title 15 US Code, § 1641(f) and 1641(g),
15 which compels the loan servicer to reveal the identity, address and phone number of the assignee
16 of the note and deed of trust or mortgage. This was not done. I sent a series of letters to the
17 lender requesting that the identify the name and address of the actual assignee of the note and
18 deed of trust.
19

20 6. After several phone calls and several weeks BROKER SOLUTIONS, INC. DBA NEW
21 AMERICAN FUNDING steadfastly refused to respond to my qualified written request. It is
22 important to note that BROKERS SOLUTIONS, INC. is not a bank and is not a lender they are a
23 table funder, and therefore they have no money to loan and no state or federal bank charter to
24 allow them to issue funding for loans. They are in the business of brokering loans, according to
25 the various websites, and people in the industry. They have acted as if they have powers to
26 enforce the note even though they have not proven their ownership interest in the note and have
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1 not proven their possession of the original note, and it is impossible for them to loan money
2 without a state or federal banking charter, and it is well known that they are a table funder and do
3 not loan money, and they resell all of their loans primarily to Fannie Mae Freddie Mac and
4 Ginnie Mae. The Defendants have a common law duty to bring forward evidence that they are in
5 possession of the note and either (1.) acting in their capacity as an assignee of the note and Deed
6 of Trust; or (2.) currently in possession of the note and Deed of Trust. The original note was
7 executed by Andrew Lloyd Barker, with BROKER SOLUTIONS, INC. DBA NEW
8 AMERICAN FUNDING.
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10 7. BROKER SOLUTIONS DBA NEW AMERICAN FUNDING also have a duty to
11 bring forward the name address and phone number of the assignee of the note, as required under
12 the Truth-In-Lending Act, Title 15 US Code §§ 1641(f) and 1641(g). Title 15 US Code §
13 1641(f)(2) states, in relevant part as follows:
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15 **(2) Servicer not treated as owner on basis of assignment for administrative convenience**

16 A servicer of a consumer obligation arising from a consumer credit transaction shall not be
17 treated as the owner of the obligation for purposes of this section on the basis of an assignment
18 of the obligation from the creditor or another assignee to the servicer solely for the
19 administrative convenience of the servicer in servicing the obligation. Upon written request by
20 the obligor, the servicer shall provide the obligor, to the best knowledge of the servicer, with the
21 name, address, and telephone number of the owner of the obligation or the master servicer of the
22 obligation. [Emphasis Added.]

23 8. BROKER SOLUTIONS DBA NEW AMERICAN FUNDING also have a duty to
24 bring forward the name address and phone number of the assignee of the note, as required under
25 the Truth-In-Lending Act, Title 15 US Code §§ 1641(f) and 1641(g). Title 15 US Code §
26 1641(g) states, in relevant part as follows:
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Title 15 US Code § 1641(g) Notice of new creditor

(1) In general

In addition to other disclosures required by this subchapter, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including-

(A) the identity, address, telephone number of the new creditor;

(B) the date of transfer;

(C) how to reach an agent or party having authority to act on behalf of the new creditor;

(D) the location of the place where transfer of ownership of the debt is recorded; and

(E) any other relevant information regarding the new creditor.

(2) Definition

As used in this subsection, the term "mortgage loan" means any consumer credit transaction that is secured by the principal dwelling of a consumer.

9. BROKER SOLUTIONS, INC. DBA NEW AMERICAN FUNDING as Claimant, participated in contract and commercial activity in respect to a Non-Negotiable Instrument Note, which is attached to a bond, which is expressly governed by Federal law and the Uniform Commercial Code which are uniform statutory laws of all of the United States of America including the District of Columbia and all fifty states. As the Plaintiff/Relator, I make the claim that the instrument/obligation became voidable when the Defendants participated in fraudulent and illegal activity, violating the rules and the laws under which the note/instrument bond is expressly governed.

10. BROKER SOLUTIONS, INC. DBA NEW AMERICAN FUNDING is not a lender and cannot foreclose as a non-lender because they are not the holder in due course of the note

1 and are not the assignee of the note and deed of trust. They also did not loan money. Instead,
2 they sold the note to someone, an unknown lender who funded the loan. They are not a hard
3 money lender. They are not a state or federally chartered bank and can only sell the note and
4 deed of trust to a third party when they acquire a new loan, as a table funder. Consequently,
5 BROKER SOLUTIONS, INC. DBA NEW AMERICAN FUNDING has no authority under the
6 note and deed of trust to hold a trustee's sale and foreclose on my loan.

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8 11. Furthermore, the Defendants never brought forward evidence that they provided the
9 proper notification regarding any alleged assignment of the note or specifically what rights were
10 assigned, which is required under Uniform Commercial Code, see Kirby v. Palos Verdes Escrow
11 Company, 183 Cal App. 3d 57, at 227 (1986). Also, there was no evidence advanced that
12 BROKER SOLUTIONS, INC. DBA NEW AMERICAN FUNDING or others were in
13 possession of the note or security instrument, a requirement for enforcement, see Matter of Staff
14 Mortg. & Inv., 550 F 2d 1228 (Ninth Circuit, 1977), also cited in Kirby, supra. It appears that
15 BROKER SOLUTIONS, INC. DBA NEW AMERICAN FUNDING is a stranger to the
16 transaction and does not have the right of enforcement of the note and Deed of Trust as a
17 stranger.
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19 12. The burden of Proof is on the alleged creditor to show that the mortgaged property
20 can be duly foreclosed by them and that claim and title to the mortgage or deed of trust is duly
21 perfected. The term "duly" implies that all of those elements to a valid assignment exists. Title is
22 duly perfected when all steps have been taken to make it perfect, that is to convey to purchaser
23 that which he has purchased is valid and good beyond all reasonable doubt. The judicial
24 foreclosure is a violation of the Uniform Commercial Code, § 3-301, which mandates that the
25 creditor must be in possession of the note or meet specific requirements under UCC § 3-309 for
26 establishing that they have a lost note. In addition, the note has to be endorsed, either with a
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1 blank endorsement or a special endorsement in which the note must be endorsed to the holder-in-
2 due-course. It is likely that the table funder BROKER SOLUTIONS, INC. DBA NEW
3 AMERICAN FUNDING has sold the note to a third party who funded the loan through a
4 REMIC.

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6 13. As discussed, I, Andrew Barker, the Plaintiff, Ex Rel have requested in writing,
7 through a qualified written request mailed to BROKER SOLUTIONS, INC. DBA NEW
8 AMERICAN FUNDING, full disclosure of the assignee of the note. They have steadfastly
9 refused to respond to the request, in violation of Title 15 US Code, §§ 1641(f) and 1641(g). Their
10 refusal to respond is clearly an indication that they have something to hide.

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12 14. In addition, Executives and management level employees within the banking and
13 securitization industries have admitted that they have been scanning and destroying almost all of
14 the promissory notes that they have securitized. As a result, the promissory notes that remain are
15 e-notes and are unenforceable when the notes, such as the ones used for mortgages and Deeds of
16 Trusts are governed by Uniform Commercial Code. Title 15, US Code, § 7003 makes it clear
17 that an e-note cannot be enforced whenever the notes are governed by the UCC and the
18 equivalent under state law. I need to see the original note to determine who the actual holder-in-
19 due-course is.
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21 15. As discussed above the Defendant, BROKER SOLUTIONS, INC. DBA NEW
22 AMERICAN FUNDING does not have the note in their possession. Their refusal to respond
23 after multiple phone calls and multiple written requests, sent by Certified mail, is tacit admission
24 that they are not the lender. If they are the actual assignee only have only a scanned copy, which
25 is also referred to as an e-note, it does not meet the requirements under the UCC and state
26 Commercial law for an assignment under Real Estate law, see Title 15 US Code, §§ 7003, 7001.
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1 The current practice by the Securitizers is to destroy the notes when they are securitized. As a
2 result the note, if the Defendants can supply one, will be an e-note and it is unenforceable in the
3 context of Title 15 US Code, § 7003. Any electronic transfers of the Andrew Lloyd Barker note
4 that may have been executed without recording an Assignment of Deed of Trust to the REMIC
5 within the Official Records of the Los Angeles County Recorder's Office are void under Uniform
6 Electronic Transactions Act (UETA) US Code § 15-96-1-7003, which states as follows:

7 *US Code § 15-96-1-7003 (a) Excepted requirements*

8 *The provisions of section 7001 of this title shall not apply to a contract or other record to the*
9 *extent it is governed by—*

10 *(3) the Uniform Commercial Code, as in effect in any State, other than sections 1–107 and 1–206*
11 *and Articles 2 and 2A.*

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15 16. The **original** note, has never been presented or shown by the Defendants, and so the
16 note has not been exhibited, even though we demanded in writing that the alleged creditor
17 “exhibit the instrument” as required under UCC § 3-501(b)(2), and they failed to do so, proving
18 that they do not have the original note in their possession.

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21 17. A real estate investor, EARTHSCAPE INVESTMENTS, LLC purchased from,
22 BROKER SOLUTIONS, INC. DBA NEW AMERICAN FUNDING, who is **not an assignee**
23 **OF THE NOTE AND DEED OF TRUST** and is not allowed to function as an assignee under
24 Title 15 US Code, § 1641(f), as discussed. They cannot, therefore, instruct the trustee to issue a
25 notice of default, and subsequently instruct the trustee to sell the subject property in a foreclosure
26 sale. BROKER SOLUTIONS, INC. DBA NEW AMERICAN FUNDING lacked standing and
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1 capacity to foreclose on the subject property.

2 18. The Defendant BROKER SOLUTIONS, INC. DBA NEW AMERICAN FUNDING
3 as well, have violated the above provisions of law, since they cannot establish their property
4 interest in the note, pursuant to UCC 3-203, UCC 3-301, UCC 3-501(b)(2), UCC 3-305 and
5 UCC 3-201, and 3-309 (the procedure used for a lost note) and the equivalent under state law.
6 An e-note is not the same as an original note as discussed pursuant to Title 15 US Code, Section
7 7003. The Los Angeles County Superior Court will be asked to act in a contractor relationship
8 with the other Defendants, setting aside their proper role as a gatekeeper of the courts to make
9 sure that the courts do not allow a law firm, such as MICHAEL C. EARLE, or a Plaintiff such as
10 EARTHSCAPE INVESTMENTS, LLC to file a civil action without standing.
11

12 19. As discussed, the original table funder never loaned any money but sold the loan
13 immediately after I signed it without the full disclosure and without compliance with the Truth-in
14 -Lending-Act, which is required under Title 15 US Code, § 1641(g) and other Federal and state
15 laws related to loan origination and servicing and learned that they violated a number of
16 provisions of the Truth-In-Lending-Act. I mailed them several letters requesting the identity of
17 the assignee of the note and deed of trust, which they steadfastly refused to respond to from
18 either mailed requests or telephone requests see **Exhibit A, attached and incorporated by**
19 **reference.**
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22 20. Pursuant to Title 15 US Code, Section 1640(a)(2)(B) the civil liability for violations
23 of the Truth in Lending Act in the case of a class action is \$ 1,000,000.00 or 1 per centum of the
24 net worth of the creditor. I, Andrew Lloyd Barker, the Plaintiff/ Relator ex rel, am exercising my
25 rights under Title 15 US Code, § 1641(c) and 1641(d) with respect to the right of rescission and
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1 the right seek damages under the Truth-in-Lending-Act for violation, described in this civil
2 action.

3 21. Given that the failure to bring forward the original note as requested, and the
4 defective claims by the Defendants, especially, BROKERS SOLUTIONS, INC. DBA NEW
5 AMERICAN FUNDING, and the recorded an Assignment of Deed of Trust in which the alleged
6 holder of the Deed of Trust is claimed to be BROKERS SOLUTIONS, INC. DBA NEW
7 AMERICAN FUNDING, which is an absolutely false statement and is designed to deliberately
8 mislead the Plaintiff. The assignment of Deed of Trust did not identify the true name of the
9 assignee of the deed of trust and misstates the actual assignee of the Deed of Trust as BROKERS
10 SOLUTIONS, INC. DBA NEW AMERICAN FUNDING, as the assignee of the Deed of Trust
11 in their capacity as a loan servicer in violation of Title 15 US Code, § 1641(f).
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13 22. In my Qualified Written Request, I asked the loan servicer to supply the name of the
14 true assignee, which they refused to do, and which is a lawful demand to supply me with the true
15 name, address and phone number of the assignee of the note and deed of trust as required under
16 Title 15 US Code Section 1641(g) as discussed. In order to discover whether or not the actual
17 assignee is the holder of the note, I now require the Defendant, BROKERS SOLUTIONS, INC.
18 DBA NEW AMERICAN FUNDING bring forward the original note for my inspection, under
19 UCC 3-501. In order to ascertain the genuineness of the Defendants claim as a creditor I need to
20 see the original note. Uniform Commercial Code Section 3-501(b)(2) makes it mandatory for the
21 creditor, making demands for payment to **EXHIBIT THE INSTRUMENT**, see UCC 3-
22 501(b)(2). That Section of law makes the production of the note mandatory. The ownership of
23 the note and mortgage cannot be split. As a result, the sale and assignment of the Deed of Trust
24 and presumably the note by MERS as a nominee of BROKERS SOLUTIONS, INC. DBA NEW
25 AMERICAN FUNDING never was a valid or enforceable transfer. I need to learn who has a
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1 documented enforceable interest in the note and deed of trust. **In addition, the signer of the**
2 **Assignment appears to be an employee of FIRST AMERICAN MORTGAGE**
3 **SOLUTIONS and not a MERS executive, as alleged. MERS does not have an office in**
4 **Idaho Falls, Idaho, however, MERS does have offices in Idaho Falls, Idaho, see Exhibit B,**
5 **attached and incorporated by reference.** MERS headquarters is in Reston, Virginia. In
6 addition, the Assignment of Deed of Trust, see **Exhibit B**, attached and incorporated by
7 reference, which was signed and recorded on June 21st of 2019. The signer of the Assignment of
8 the Deed of Trust, claiming to be a MERS executive, without any credentials, such as an
9 appointment from the Board of Directors of MERS as a Vice President. Normally, when dealing
10 with a corporate executive, third parties require confirmation of the legal status of a corporate
11 officer to confirm their status as someone who has actually been appointed by the Board of
12 Directors of a corporation. BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING
13 cannot assign the Deed of Trust to themselves, which is what they have done with this document.
14 Also, as discussed above, MERS cannot act as an agent of BROKERS SOLUTIONS, INC. DBA
15 NEW AMERICAN FUNDING without an agency relationship by way of a power-of-attorney on
16 file with the County Recorder in Los Angeles County. See Paragraph 24 below for a more fully
17 developed exposition of the issues regarding the lack of an agency status for MERS.
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21 23. As discussed, there is also a great deal of doubt as to whether or not MICHAEL C.
22 EARLE, ESQ. or BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING have the
23 note in their possession. They appear to only have an e-note, which of course is a scanned
24 electronic copy of the original. And of the question of ownership of the note is a vital part of
25 determining who has the right to foreclose and sell the property. This calls into question the
26 validity of the foreclosure and demonstrates that the title is not duly perfected. **We are being led**
27 **to believe that BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING is the**
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1 holder of the note and mortgage, with only hearsay evidence. They are not a federally or
2 state chartered bank so they cannot be a lender, since they have not been authorized to
3 loan money by way of a bank charter.

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5 24. There is no chain of title for the note from **BROKERS SOLUTIONS, INC. DBA**
6 **NEW AMERICAN FUNDING**, to the actual assignee of the note. In addition, the note and
7 mortgage cannot be split, see *Carpenter v. Longan*, 16 Wall. 271, 83 U.S. 271, 21 L.Ed. 313
8 (1872).

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10 25. As a result of the foregoing, the Defendants have not established, with admissible
11 evidence, that any of them are the holder of the note and cannot foreclose or instruct their agents
12 to conduct a foreclosure sale, because they are not the beneficiary of the note and mortgage, as
13 discussed above. They have not supplied documents in which they have made sworn statements,
14 signed in front of a notary and supplied evidence about who holds the note and the ownership of
15 the note. With all of the conflicting documents and consequent confusion regarding who the
16 actual note holder is and assignee of the Deed of Trust is, the attempt by **BROKERS**
17 **SOLUTIONS, INC. DBA NEW AMERICAN FUNDING**. The lack of a documented
18 enforceable interest in the note and Deed of Trust is void, making the foreclosure civil case void
19 ab initio. On their Website, **BROKERS SOLUTIONS, INC. DBA NEW AMERICAN**
20 **FUNDING** states that they are assigning their loans to Freddie Mac, Fannie Mae and Ginnie
21 Mae, see **Exhibit C**, attached and incorporated by reference. All of the documents recorded and
22 filed prior to, during and after the foreclosure violated the terms of the **Deed of Trust**, because
23 only the current alleged lender or assignee can foreclose and there is no evidence from the
24 Defendants that they are the holder of the note or the holder-in-due-course. Additionally,
25 the flawed pre-foreclosure documents that have been recorded, such as the Assignment of
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1 **Deed of Trust are filed by a stranger to the transaction and cannot be relied upon to**
2 **support the foreclosure of the subject property.** There is a broken chain of title to the note,
3 from the original lender to the alleged current creditor, whoever that turns out to be. There is no
4 evidence brought before any court that title was duly perfected as required under state law.
5 Unlike a landlord tenant case in a mortgage foreclosure, title becomes an issue. Duly perfected
6 title must include all necessary steps to make it perfect and must be valid and good beyond all
7 reasonable doubt. As a result of the foregoing, the title is not duly perfected, the Defendants do
8 not have good and perfected title and the foreclosure is invalid and void, meaning that the Los
9 Angeles County Courts, when asked to hear a foreclosure/eviction case, do not have jurisdiction
10 to hear this foreclosure/eviction case. BROKERS SOLUTIONS, INC. DBA NEW AMERICAN
11 FUNDING, are named because they have violated the terms of the Deed of Trust, the federal and
12 state laws described in this complaint, including but not limited to the Truth in Lending Act.
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15 26. EARTHSCAPE INVESTMENTS, LLC is named because they purchased the
16 property from someone who is not authorized under the deed of trust, and federal and state law to
17 foreclose and together with BROKERS SOLUTIONS, INC. DBA NEW AMERICAN
18 FUNDING have not met any of the requirements of the above sections of Uniform Commercial
19 Code, to demonstrate that they are the holder of the note and entitled to enforce the note and
20 deed of trust as discussed above and several important requirements placed upon creditors by the
21 appeals courts in California. As a result, BROKER SOLUTIONS, INC, DBA NEW
22 AMERICAN FUNDING are strangers to the transaction and they have absolutely no property
23 interest in the note and Deed of Trust, for reasons previous discussed. EARTHSCAPE
24 INVESTMENTS INC. has filed an eviction civil case against me to obtain ownership and
25 control of my home. The foreclosure case is an eviction case against me, designed to obtain
26 control and possession of the subject property and is the last part of the debt collection process.
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1 27. MICHAEL C. EARLE have assisted the other Defendants in filing an eviction case
2 to obtain unlawful control and ownership of the subject property. I ask that MICHAEL C.
3 EARLE send me the contract or agreement signed and executed by salaried employees of MERS
4 and BROKER SOLUTIONS, INC. DBA NEW AMERICAN FUNDING and under the REAL
5 PROPERTY Laws of California, California Statute of Frauds, Civil Code § 1624, authorizing
6 MERS and subsequently under the Laws of Agency to transfer and assign an Ownership Interests
7 in my Real Property as a Nominee for BROKER SOLUTIONS, INC. DBA NEW AMERICAN
8 FUNDING (“A nominee of the owner of a note and mortgage may not effectively assign the note
9 and mortgage to another for want of an ownership interest in said note and mortgage by the
10 nominee.”) In re: FERREL L. AGARD, Case No. 810-77338-reg. Doc 41-1 02/10/11. Because
11 MERS’s members, the beneficial note holders, purported to bestow upon MERS interests in real
12 property sufficient to authorize the assignments of mortgage, the alleged agency relationship
13 must be committed to writing by application of the statute of frauds, see California Civil Code
14 1624, the California Statute of Frauds. A power of attorney is necessary to show how the agent is
15 vested with authority to assign a mortgage, HSBC BANK, USA, NA v, Yeasmin, 866 NY S 2d
16 92(2008). A number of Judges around the nation have evaluated the status of MERS and their
17 relationship with lenders and have concluded that MERS does not have a sufficient agency
18 relationship with the lender that gives them the powers to assign a note or mortgage Because
19 MERS’s members, the beneficial note holders, purported to bestow upon MERS interests in real
20 property sufficient to authorize the assignments of mortgage, the alleged agency relationship
21 must be committed to writing by application of the statute of frauds.
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26 28. In *LaSalle Bank, N.A. v. Bouloute* the court concluded that MERS must have some
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1 evidence of authority to assign the mortgage in order for an assignment of a mortgage by
2 MERS to be effective. Evidence of MERS's authority to assign could be by way of a power
3 of attorney or some other document executed by the original lender. See *Bouloute*, 2010 WL
4 3359552, at *1; *Alderazi*, 900 N.Y.S.2d at 823 (“To have a proper assignment of a mortgage
5 by an authorized agent, a power of attorney is necessary to demonstrate how the agent is
6 vested with the authority to assign the mortgage.”) (quoting *HSBC Bank USA, NA v. Yeasmin*,
7 866 N.Y.S.2d 92 (N.Y. Sup. Ct. 2008)).
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10 29. Other than naming MERS as “nominee”, the Deed of Trust also provides that the
11 Borrower transfers legal title to the subject property to MERS, as the Lender’s nominee, and
12 acknowledges MERS’s rights to exercise certain of the Lender’s rights under state law. This
13 too, is insufficient to bestow any authority upon MERS to assign the mortgage. In *Bank of New*
14 *York v. Alderazi*, the court found “[t]he fact that the borrower acknowledged and consented to
15 MERS acting as nominee of the lender has no bearing on what specific powers and authority the
16 lender granted MERS.” *Alderazi*, 900 N.Y.S.2d at 824. Even if it did bestow some authority
17 upon MERS, the court in *Alderazi* found that the mortgage did not convey the specific right to
18 assign the mortgage. The Court agrees with the reasoning and the analysis in *Bouloute* and
19 *Alderazi*, and the other cases cited herein and finds that the Mortgage, by naming MERS a
20 “nominee,” and/or “mortgagee of record” did not bestow authority upon MERS to assign the
21 Mortgage. See also *Bank of America, NA v. Greenleaf*, 2014 ME 89, (Maine Sup Ct, 2014) the
22 Court in *B of A v. Greenleaf*, supra at page 2, stated, “We agree that the Bank lacks standing to
23 seek foreclosure of the property, and we vacate the judgment.” They stated further: “[¶16] When
24 MERS then assigned its interest in the mortgage to BAC, it granted to BAC only what MERS
25 possessed—the right to record the mortgage as nominee—because MERS could not have granted
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1 to another person or entity any greater interest in the mortgage than that enjoyed by MERS. *See*
2 *Sturtevant v. Town of Winthrop*, 1999 ME 84, ¶ 11 n.4, 732 A.2d 264 (stating that “an assignee
3 has no greater rights than his assignor”).” See also *In re Ferrel Agard*, US Bankruptcy Court
4 Eastern District Of New York, 10-77338-reg, “However, without more, this Court finds that
5 MERS’s “nominee” status and the rights bestowed upon MERS within the Mortgage itself, are
6 insufficient to empower MERS to effectuate a valid assignment of mortgage.” The Court went
7 on to say: the Treasurer of MERS, William C. Hultman, declared under penalty of perjury that
8 “pursuant to the MERS’s Rules of Membership, Rule 2, Section 5. . . First Franklin appointed
9 MERS to act as its agent to hold the Mortgage as nominee on First Franklin’s behalf, and on
10 behalf of First Franklin’s successors and assigns.” (Affirmation of William C. Hultman, ¶7).
11 However, Section 5 of Rule 2, which was attached to the Hultman Affirmation as an exhibit,
12 contains no explicit reference to the creation of an agency or nominee relationship. Consistent
13 with this failure to explicitly refer to the creation of an agency agreement, the rules of
14 membership do not grant any clear authority to MERS to take any action with respect to the
15 mortgages held by MERS members, including but not limited to executing assignments.”
16
17
18

19 30. Because MERS’s members, the beneficial note holders, purported to bestow upon
20 MERS interests in real property sufficient to authorize the assignments of mortgage, the alleged
21 agency relationship must be committed to writing by application of the statute of frauds.
22
23

24
25 31. That there was no contract or agreement between BROKERS SOLUTIONS,
26 INC. DBA NEW AMERICAN FUNDING and MERS under § 1624 of The Civil Code of
27 California, the Statute of Frauds, granting MERS and the ROBO SIGNER, Kayla Schroeder,
28

1 powers of attorneys as Assignors on June 21st, 2019 and MERS. Therefore, BROKERS
2 SOLUTIONS, INC. DBA NEW AMERICAN FUNDING lack the requisite requirements under
3 California law as Real Parties-of-Interest, with Standing and Capacity under California Code of
4 Civil Procedure § 367, which states “Every action must be prosecuted in the name of the real
5 party in interest, except as otherwise provided by statute. The Foreclosure Action Fails to state a
6 Claim upon which the Superior Court of Los Angeles County May Grant Relief under California
7 Code of Civil Procedure § 367, wherein EARTHSCAPE INVESTMENTS, LLC has filed an
8 unlawful detainer against me without first having purchased the subject property at 155 WEST
9 51ST Street, Los Angeles, California from someone with a documented enforceable interest in the
10 note and deed of trust. As Affirmative Defenses and as a Threshold Issue under Article 111 §§ 1
11 ARTICLE III SECTIONS 1 & 2 of the Federal Constitution and § 367 of the California Code of
12 Civil Procedure.
13

14 32. Because MERS’s members, the beneficial note holders, purported to bestow upon
15 MERS interests in real property sufficient to authorize the assignments of mortgage, the alleged
16 agency relationship must be committed to writing by application of the statute of frauds, § 367 of
17 the California Code of Civil Procedure and Civil Code §1624 of the STATUTE OF FRAUDS of
18 California as discussed above.
19

20 33. The Word “NOMINEE” does not empower MERS to effectuate an assignment of
21 the mortgage. The above cases hold that MERS may not validly assign a mortgage or deed of
22 trust based on its nominee status, absent some evidence of specific authority to assign the
23 mortgage or deed of trust and does not empower MERS to effectuate an assignment of the
24 mortgage. The above statute holds that MERS may not validly assign a mortgage based on its
25 nominee status, absent some evidence of specific authority to assign the mortgage.
26
27
28

1 34. I ask that MICHAEL C. EARLE, ESQ., the ATTORNEY FOR EARTHSCAPE
2 INVESTMENT, INC. send me a certified copy of the Durable Power of Attorney under the
3 California Probate Code. The Word "NOMINEE" does not empower MERS to effectuate an
4 assignment of the mortgage. The above-cited cases hold that MERS may not validly assign a
5 mortgage based on its nominee status, absent some evidence of specific authority to assign the
6 mortgage and does not empower MERS to effectuate an assignment of the mortgage. These
7 cases hold that MERS may not validly assign a mortgage based on its nominee status, absent
8 some evidence of specific authority to assign the mortgage.
9

10 35. I am in possession of Transcripts from Sworn Testimony from William C. Hultman
11 the Corporate Secretary of the Fictitious Mortgage Electronic Registration System in the
12 SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION - ATLANTIC COUNTY F-
13 10209-08 BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATE HOLDERS
14 CWABS, INC. ASSET-BACKED CERTIFICATES, SERIES 2005-AB3 Plaintiff(s), vs.
15 VICTOR and ENOABASI UKPE Defendant(s) dated April 7, 2010 that evidences the
16 following
17

18 a) That MERS does not have any Salaried Employees.

19 b). That the first iteration of MERS has not existed since June 30th, 1998 see transcripts lines
20 21-26 page 92.
21

22 In addition, there was no contract or agreement between BROKERS SOLUTIONS, INC. DBA
23 NEW AMERICAN FUNDING, and MERS under § 1624 of the Maryland Statute of Frauds,
24 granting MERS and the ROBO SIGNER, Kayla Schroeder, powers of attorney as Assignors on
25 June 21st, 2019 and MERS on the Assignment of Deed of Trust. Therefore, EARTHSCAPE
26 INVESTMENTS, LLC lacks the requisite requirements under California Civil Code § 1624, and
27
28

1 California Code of Civil Procedure § 367 as Real-Parties-of-Interest with Standing and Capacity
2 under said statutes. Consequently, the Foreclosure Action does not state conditions precedent
3 under said statutes. The Unlawful Detainer action fails to state a Claim upon which the Superior
4 Court of Los Angeles County May Grant Relief. This is an Affirmative Defenses and as a
5 Threshold Issue under Article 111 §§ 1 & 2 of the Federal Constitution and California Civil
6 Code § 367.
7
8

9
10 **FIRST CAUSE OF ACTION**

11 **Violation of The Truth in Lending Act 15 USC, § 1641, et seq and**

12 **DECLARATORY AND INJUNCTIVE RELIEF Pursuant to Title 28, USC § 2201 and**
13 **2202 and Title 15 US Code § 1641 et seq.**

14 **VIOLATION OF THE FEDERAL TRUTH IN LENDING ACT**

15 **Against all Defendants**

16 36. *All of the above Paragraphs of this Complaint are hereby incorporated by reference*
17 *as though fully set forth herein.*
18

19 37. The Plaintiff can make ask the court to order the Defendant, BROKERS
20 SOLUTIONS INC. DBA NEW AMERICAN FUNDING pursuant to Title 15 US Code, §§
21 1641(f) and 1641(g). to bring forward the name, address and phone number of the assignee of the
22 note and deed of trust, as required under Federal statutes at Title 15 US Code § 1641(g), and §
23 1641(f). The Plaintiffs hereby make this claim for recoupment under Title 15 US Code, § 1640.
24 Section 1640 a (2) (B) states as follows: I, the Plaintiff/Relator as borrower purchased the
25 property with BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING
26
27
28

1 **38. I, the borrower, and Debtor, did further send a written notice, by certified mail,**
2 **as a qualified Written Request, to BROKERS SOLUTIONS INC. DBA NEW AMERICAN**
3 **FUNDING, on several occasions, asking them to supply me with the name of the assignee of**
4 **the note and deed of trust. The loan servicer, BROKERS SOLUTIONS INC. DBA NEW**
5 **AMERICAN FUNDING refused to respond over the phone or through the mail in response**
6 **to my qualified written request. It appeared that they were very concerned about this disclosure,**
7 **and decided to refuse to give me the information. They were obviously attempting to cover up**
8 **the information about who the assignee is. I ask for declaratory relief only from the Los Angeles**
9 **County Sheriff, in the form of a court order commanding said Sheriff to refrain from**
10 **enforcement of the eviction order from the Unlawful Detainer case that was filed until such time**
11 **as this matter can come to trial and become finally decided.**

13
14 **39. The loan servicer, BROKERS SOLUTIONS INC. DBA NEW AMERICAN**
15 **FUNDING is a table funder and does not have money to loan. Instead, they sell their notes and**
16 **deeds of trust to third parties, such as Fannie Mae, Freddie Mac and Ginnie Mae. On their**
17 **website, the loan servicer states they refer to themselves as a Fannie Mae, Freddie Mac and**
18 **Ginnie Mae direct lender, seller and servicer, see Exhibit C, attached and incorporated by**
19 **reference. This table funder or loan broker does not have a source of money to loan. This is why**
20 **they sell their loans to third parties.**

22 **40. The duty to make full disclosure of the assignee of the note and deed of trust is**
23 **unequivocal, and mandatory. The reason why they did not want to disclose this information is**
24 **that they would have to admit that they did not have standing and capacity to foreclose,**
25 **especially, in the light of the requirements under Title 15 US Code, §§ 1641(f) and 1641(g).**
26

27 **41. I ask the court for an order compelling the loan servicer, BROKERS SOLUTIONS**
28

INC. DBA NEW AMERICAN FUNDING to fully disclose the requested information as follows:

One. The name, address and phone number of the assignee of the Andrew Lloyd Barker loan that was made for the house at 155 West 51st Street, Los Angeles, California.

Two. The date that the Assignment was made and the County where the transaction was recorded.

Three. How to reach an agent or party having authority to act on behalf of the new creditor.

Four. The location of the place where transfer of ownership of the debt is recorded.

**SECOND CAUSE OF ACTION
(Breach of Fiduciary Duty)**

Against BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING

42. *All of the above Paragraphs of this Complaint are hereby incorporated by reference as though fully set forth herein.*

43. A broker of services relating to real estate located in California has a fiduciary duty to the recipient of such services of fair dealing and full disclosure and the utmost protection of said recipient's interest in a transaction.

44. In executing the loan documents BROKERS SOLUTIONS INC. DBA NEW AMERICAN FUNDING had a fiduciary duty to Andrew Lloyd Barker to make full disclosure to me, as the borrower, about the assignment of the note and deed of trust or mortgage, including, the date of the transfer, the identity of the actual assignee, the address and phone number of the

1 new lender, and the location of the place where the transfer of the loan was recorded. The loan
2 broker has a duty to me to make full disclosure and has fiduciary duty to me under California
3 Civil Code Section § 2923.1 to place my economic interests above their own.

4
5 45. BROKERS SOLUTIONS INC. DBA NEW AMERICAN FUNDING violated its
6 fiduciary duties to Andrew Lloyd Barker by acting in its own interests in the following manner:
7 (A) by failing to make contact with me through the mail and over the telephone or in person and
8 offer me an alternative to foreclosure, evaluate the homeowner's financial situation and explore
9 options to avoid foreclosure such as a loan modification, see California Civil Code § 2923.4,
10 2923.5. The Defendant, BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING,
11 by through their trustee, failed to comply with Civil Code § 2924 which mandates that a Notice
12 of Default must not be filed until 30 days after contact is made with the borrower, as required by
13 paragraph 2, or until thirty days after the due diligence requirements as described in subdivision
14 (g). The Notice of Trustees Sale does not have the required Declaration of Due Diligence as
15 required under Civil Code § 2923.5 stating that the Defendant borrower was affirmatively
16 contacted in person or by telephone to assess the borrower's financial situation and explore
17 options for the Defendant to avoid foreclosure.

18
19
20 46. These conditions precedent for lawful foreclosure under California law were never
21 complied with as required under the above cited statutes.

22 (B) by failing to supply factual evidence that they are the holder in due course of the note and
23 deed of trust and have met the requirements under California Civil Code § 2932.5., especially
24 where it is well known that they do not retain ownership of any of their loans and sell them to
25 Fannie Mae, Freddie Mac or Ginnie Mae.

26
27 47. The trustee that conducted the non-judicial foreclosure sale was not a holder in due
28

1 course of the original note because the note was rendered non-negotiable by the manner in which
2 the assignment was attempted, invalidating the note and resulting Trustees Deed Upon Sale of
3 which denies ERATHSCAPE INVESTMENTS, INC. standing to seek possession of the subject
4 property. The Trustees Deed Upon Sale is also void because the alleged assignee is not the
5 assignee of the Deed of Trust, as discussed because they sell all of their loans immediately after
6 obtained the loan documents.

7
8 48. I, Andrew Barker, have been damaged by a wrongful foreclosure, which is a breach
9 of fiduciary duty in the form of financial loss.

10
11 49. BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING's actions were
12 intentional, willful and wanton, and justify the imposition of punitive damages.

13
14 50. Due to BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING's
15 breach of its fiduciary duty to Andrew Lloyd Barker, the plaintiffs are entitled to compensatory
16 and punitive damages, and any other relief this court deems proper.

17
18
19 51. Further, The California Supreme Court has ruled in Yvanova v. New Century
20 Mortgage, 62 Cal. 4th 919 (Calif Sup. Ct. 2016), stated "We hold only that a borrower who has
21 suffered a nonjudicial foreclosure does not lack standing to sue for wrongful foreclosure based
22 on an allegedly void assignment merely because he or she was in default on the loan and was not
23 a party to the challenged assignment."

24
25 52. The decision by the California Supreme Court in Yvanova v. New Century Mortgage,
26 supra, was clear that the homeowner has a right to know who the actual assignee of their note
27 when they stated as follows:

1 **Nor is it correct that the borrower has no cognizable interest in the identity**
2 **of the party enforcing his or her debt. Though the borrower is not entitled to object**
3 **to an assignment of the promissory note, he or she is obligated to pay the debt, or**
4 **suffer loss of the security, only to a person or entity that has actually been assigned**
5 **the debt.** (See *Cockerell v. Title Ins. & Trust Co.*, *supra*, 42 Cal.2d at p. 292 [party
6 claiming under an assignment must prove fact of assignment].) The borrower owes
7 money not to the world at large but to a particular person or institution, and only the
8 person or institution entitled to payment may enforce the debt by foreclosing on the
9 security. [Page 22] [Emphasis added.]

10 53. BROKERS SOLUTIONS INC. DBA NEW AMERICAN FUNDING's actions were
11 unlawful in acting to foreclose as an assignee, when they do not provide financing for
12 homeowners directly from their status as a financial institution as a bank would, instead they sell
13 all of their loans as they did with mine and then they refused to answer any questions regarding
14 the assignee of the loan as required under Title 15 USC §§ 1641(f) and 1641(g)

15 54. The ruling in *Yvanova v. New Century Mortgage*, *supra* makes it clear that the
16 homeowner has standing to file wrongful foreclosure against a stranger to the transaction, as
17 follows:

18 In seeking a finding that an assignment agreement was void, therefore, a
19 plaintiff in *Yvanova*'s position is not asserting the interests of parties to the
20 assignment; **she is asserting her own interest in limiting foreclosure on her**
21 **property to those with legal authority to order a foreclosure sale.** This, then, is
22 not a situation in which standing to sue is lacking because its —sole object . . . is
23 to settle rights of third persons who are not parties.¶ (*Golden Gate Bridge etc.*
24 *Dist. v. Felt* (1931) 214 Cal. 308, 316.) [Page 21] [Emphasis added.]

THIRD CAUSE OF ACTION
Wrongful Foreclosure

**Against BROKERS SOLUTIONS, INC., DBA NEW AMERICAN FUNDING,
EARTHSCAPE INVESTMENTS, LLC**

55. All of the above Paragraphs of this Complaint are hereby incorporated by reference as though fully set forth herein.

56. BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING has committed an act of deception by deliberately circumventing the law regarding disclosure of the assignee of a note and deed of trust. This table funder is not a lender, they are a table funder, while selling their loans to third parties. In *Yvanova v. New Century Mortgage*, supra, the California Supreme Court stated:

Nor is it correct that the borrower has no cognizable interest in the identity of the party enforcing his or her debt. Though the borrower is not entitled to object to an assignment of the promissory note, he or she is obligated to pay the debt, or suffer loss of the security, only to a person or entity that has actually been assigned the debt. (See *Cockerell v. Title Ins. & Trust Co.*, supra, 42 Cal.2d at p. 292 [party claiming under an assignment must prove fact of assignment].) The borrower owes money not to the world at large but to a particular person or institution, and only the person or institution entitled to payment may enforce the debt by foreclosing on the security. [Page 22]

57. The courts in California have consistently ruled that an alleged lender cannot move forward with a foreclosure sale when they lack an interest of record, which is the case with BROKERS SOLUTIONS, INC. dba NEW AMERICAN FUNDING. As discussed, they are not a bank and must sell all of the loans to third parties like Fannie Mae and Freddie Mac, which is stated prominently on their website, see **Exhibit C**, attached and incorporated by reference.

1 58. The appeals courts in California have affirmed this doctrine that an alleged lender
2 cannot foreclose without having first acquired an assignment of the note and deed of trust. This
3 includes the Ninth Circuit Court of Appeals cite found below, as follows:

4
5 Because ING lacked an interest of record, it was not authorized to proceed with
6 the foreclosure sale under § 2932.5, rendering the sale void. Dimock v. Emerald
7 Properties, 81 Cal.App.4th 868, 874, 97 Cal. Rptr.2d 255 (2000) (sale under deed of trust
8 by former trustee *void*, and tender of the amount due is unnecessary); Bank of America,
NA v. La Jolla Group II, 129 Cal. App. 4th 706, 28 Cal.Rptr.3d 825.

9
10 [NINTH CIRCUIT CASE FOUND BELOW]

11 To reevaluate whether § 2932.5 concerns both mortgages and deeds of trust, the
12 Court has carefully considered the "intermediate appellate court decisions, decisions from
13 other jurisdictions, statutes, treatises, and restatements as guidance ..." to attempt to
14 determine how the California Supreme Court would rule. Lewis v. Tel. Employees Credit
15 Union, 87 F.3d 1537, 1545 (9th Cir.1996). The Court remains convinced that the highest
16 court in this state would hold that § 2932.5 requires an assignee trust deed beneficiary to
17 record its interest before it non-judicially forecloses.

18 59. BROKERS SOLUTIONS, INC. dba NEW AMERICAN FUNDING through a
19 corporation in Idaho, see Exhibit D, attached and incorporated by reference, knowingly made the
20 following false representations to me, Andrew Lloyd Barker, with the intent to deceive me and
21 thereby assume the posture of an assignee, even though they sell all of their loans and do not
22 retain ownership or possession of these loans.

23
24 60. BROKERS SOLUTIONS, INC. dba NEW AMERICAN FUNDING, through the
25 mortgage Broker, in bad faith and with intent to defraud me, Andrew Lloyd Barker, have
26 knowingly made false and misleading representations and omissions of material facts, in order to
27

1 obtain a recording of a false and fraudulent recording of the Assignment of Deed of Trust, Notice
2 of Default, Notice of Trustee's Sale and Trustees Deed Upon Sale.

3
4 61. BROKERS SOLUTIONS, INC. dba NEW AMERICAN FUNDING intended to
5 deceive, me, Andrew Lloyd Barker and third parties and induced us to rely on its
6 misrepresentations and omissions of material fact.

7
8
9 62. Richard Pitts, Jr. and his wife Sandra L. Pitts justifiably relied on BROKERS
10 SOLUTIONS, INC. dba NEW AMERICAN FUNDING's false and misleading statements.

11
12 63. Due to the acts of fraud of BROKERS SOLUTIONS, INC. dba NEW AMERICAN
13 FUNDING, I, Andrew Lloyd Barker am due compensatory and punitive damages, and any other
14 relief this Court deems proper. I ask for further relieve in accordance with law.

15
16
17 **FOURTH CAUSE OF ACTION**

18 Action to Quiet Title

19 **Against BROKERS SOLUTIONS, INC., DBA NEW AMERICAN FUNDING,**
20 **EARTHSCAPE INVESTMENTS, LLC**

21
22 64. The Plaintiff does hereby incorporate by reference all of the previous paragraphs
23 presented in this claim as if fully incorporated herein.

24
25 65. The Defendants engaged in overt acts of deception, claiming to be the holder in
26 due course, and the owner of the note and deed of trust for the subject property, without a
27 properly recorded Assignment of the Deed of Trust and chain of title to whoever BROKERS

1 SOLUTIONS, INC. DBA NEW AMERICAN FUNDING sold their loan to. It must be
2 emphasized that this Defendant is not a bank and cannot loan money. They are also not a
3 hard money lender. They sell their loans primarily to GSE lenders, such as Freddie Mac.
4 They have not revealed who the actual assignee is from the original lender and have failed to
5 disclose the Assignee of the Barker loan when asked in writing under Title 15, US Code §
6 1641(f).

7
8 66. They are without any chain of title for their alleged claim to ownership of the note
9 and deed of trust. This makes the Substitution of Trustee, the Notice of Default and the
10 Notice of Sale void ab-intio. It has been conclusively demonstrated that the Andrew Barker
11 loan was sold, based upon their website, see **Exhibit C**, attached and incorporated by
12 reference. As a result, the above three documents, the Assignment of Substitution of Trustee,
13 the Notice of Default and the Notice of Trustee's Sale are void and must be declared as void
14 as a matter of law. The Defendant EARTHSCAPE INVESTMENTS, LLC has purchased the
15 subject property from a trustee who was appointed by BROKERS SOLUTIONS, INC. DBA
16 NEW AMERICAN FUNDING, who has no standing and capacity to appoint a Substitute
17 Trustee as a stranger to the transaction as a non-assignee. Consequently, EARTHSCAPE
18 INVESTMENT, INC. purchased the subject property from a trustee that lacks standing and
19 capacity.
20

21 67. I ask the court to quiet title to the subject property, described below, because the
22 Defendants have no security interest or other interest in the subject property. The Defendants
23 are claiming to have a competing interest in the subject property, which is defective, and void
24 of any validity what-so-ever for reasons previously stated and discussed above. I require the
25 magistrate to honor and uphold the following rulings by the California Court of Appeals,
26 *Onofrio v. Rice*, 55 Cal App 4th 413, at 424 (1997), *Stockton v. Newman*, 148 Cal App 2d
27
28

1 558, at 564 (1957); "Lona v. Citibank, N.A., 134 Cal. Rptr. 3d 622, 633 (Cal. Ct. App. 2011),
2 which states that the Plaintiff in an action to Quiet title does not have to tender payment
3 when the Plaintiff is challenging the validity of the debt.

4 68. The Defendant BROKERS SOLUTIONS, INC. DBA NEW AMERICAN
5 FUNDING does not have a valid claim as a creditor because they have prepared and
6 recorded a document, the Assignment of Deed of Trust, which contains false statements that
7 they are the assignee of the Deed of Trust and completely misrepresents their status as an
8 assignee, while their Website acknowledges the fact that they sell their loans to third parties,
9 primarily Freddie Mac, Fannie Mae and Ginnie Mae. Furthermore, everyone in the mortgage
10 industry considers them a table funder. They are not a state chartered or federally chartered
11 bank. They do not have money to loan, since they are not affiliated with the Federal Reserve.
12

13 69. As a result, they cannot be the owner or the holder-in-due-course of any of the
14 loan documents that I signed with them. This claim as an assignee is not only a false
15 statement and amounts to fraudulent misrepresentation but is also a violation of Title 15 US
16 Code § 1641(f), as discussed above. All subsequent documents, recorded, including, but not
17 limited to the Notice of Default, the Notice of Trustee's Sale, and the Trustees Deed Upon
18 Sale all falsely misrepresent BROKERS SOLUTIONS, INC. DBA NEW AMERICAN
19 FUNDING as an assignee of the note, regardless, they are not the assignee of the note and
20 Deed of Trust, because they sell all of their loans as soon as they receive the loan documents.
21 It appears that they sell all of their notes to Freddie Mac, Fannie Mae and Ginnie Mae.
22

23 70. The above-captioned action alleges a real property claim affecting certain real
24 property that is situated in Los Angeles -county, California, and that is described as follows;
25
26
27
28

1 The land referred to herein is situated in California, one of the Several States of the
2 union of states known as the United States of America, Los Angeles County and The City of
3 Los Angeles, and is described as follows:

4 The land referred to is situated in Los Angeles County, The City of Los
5 Angeles, the State of California, and is described as follows:
6

7 Lot 46 in Block B, The McCarthy Company's Main Street and Moneta
8 Avenue Tract, in the City of Los Angeles, Loas Angeles County, the State of
9 California, as per map recorded, in Book 6, Page 113 of maps, in the Office of the
10 County Recorder of said county. APN 5110-024-017
11

12 The above-described land and improvements are commonly known as 155
13 51st Street Los Angeles, California.
14

15 71. I, Andrew Lloyd Barker, the Plaintiff am entitled to quiet the title to the subject
16 property in my name exclusively, and against the claims of all Defendants, based upon the
17 foregoing, in accordance with California law. I seek an order quieting the title to the subject
18 property in my name only and exclusively in this civil action.
19

20 **FIFTH CAUSE OF ACTION**

21

22 Action of Trespass, Trespass Quare Clausum Fregit
23

24 **Against BROKERS SOLUTIONS, INC., DBA NEW AMERICAN FUNDING,**
25 **EARTHSCAPE INVESTMENTS, LLC**

26 72. The Plaintiffs do hereby incorporate by reference all of the previous paragraphs
27 presented in this claim as if fully incorporated herein.
28

1 73. At common law, the action of trespass was restricted to a direct invasion, and on
2 proof thereof, the Defendant was strictly liable regardless of negligence. For an indirect
3 invasion, the proper action was "on the case," and the doctrine of strict liability did not
4 apply. However, in this state the distinction between direct and indirect invasions is not
5 recognized, see Cal Jur 3d Trespass, Page 432; Gallin v. Poulou, (First Dist., 1956) 140 Cal.
6 App. 2d 638.

7
8 74. **It has been said by the California Supreme Court that every wrongful invasion**
9 **of the rights of another in real property from which damage results is an act from**
10 **which an action of trespass may be maintained, see Cal Jur 3d, McLeod v. Fox West**
11 **Coast Theaters Corporation, (Calif. Sup. Ct., 1937) 10 Cal 2d 383 74 P 2d 276. A trespass**
12 **need not take the form of a personal entry on the property by the wrongdoer, see**
13 **Starrh and Starrh Cotton Growers, v. Aera Energy, LLC, (Fifth Dist., 2007) 153 Cal.**
14 **App 583, 63 Cal. Rptr. 3d 165. A trespass is the unlawful interference with the**
15 **possession of property, and a trespass cause of action protects the possessory interest**
16 **in land from such unlawful interference, see Hernandez v. Lopez, (Fourth Dist., 2009)**
17 **180 Cal App. 4th 982. See also Am Jur 2d 75, §§ 1 and 2, at Page 14. As a result, we are**
18 **filing this as an Action of Trespass.**

19
20 75. The Plaintiff does hereby aver and State the following: The Defendants are the causal
21 agents of the trespass on the case because they do not have a verified claim and do not have
22 any evidence of any ownership of the loan that is the subject of this complaint. The
23 Defendant, BROKERS SOLUTIONS, INC. DBA NEW AMERICAN FUNDING are not
24 assignees of the subject note and deed of trust and have supplied no admissible evidence that
25 they are assignees of said note and deed of trust, nor do they have any documented
26
27
28

1 enforceable interest in the subject loan except for hearsay, in violation of the rules of the
2 common law and the rules of evidence.

3 76. The Defendants continue to trespass on the property of the Plaintiffs by demanding
4 payment of a debt for which they are strangers to the transaction and not lawfully entitled to
5 payment of money or property. *They have held a foreclosure sale without lawful authority*
6 *based upon the flawed and defective paperwork I commented on above, including the*
7 *flawed Assignment of Deed Of Trust. These actions by the Defendants are an unlawful*
8 *interference with my possessory interest in the subject property, See AM Jur 2d, 75, § 4, page*
9 *16; Keesecker v. Bird, 200 W. Va. 667, 490 S.E. 2d 754.*

11 77. They seek exclusive right, title and interest in the subject property as strangers to the
12 transaction with unverified claims. They have only a *defective recorded appointment of the*
13 *trustees for the subject loan and do not meet the REQUIREMENTS UNDER THE*
14 *COMMON LAW. This is a TRESPASS QUARE CLAUSUM FREGIT. This is a remedy,*
15 *which lies to recover damages when the defendant has unlawfully and wrongfully trespassed*
16 *upon the land, home and real estate of the plaintiff. The flawed documents make the*
17 *attempted foreclosure a conversion, see Bouvier's Law Dictionary, 1856.*

19 78. The Defendants are attempting to acquire the subject property by way of a defective
20 and unverified claim, with a flawed and defective written assignment that is alleged to be
21 from the original lender, however it is executed by a third party, who is misrepresenting
22 herself as a MERS executive. The Plaintiff seeks Declaratory relief in the nature of an order
23 of cease and desist and an order stating that the Defendants do not have any right, title or
24 interest in the subject property, as stated above.

26 79. By the doctrine of laches and by tacit admission, as stated above, they do not have
27 any valid claim to collect any further, even if they could supply verification of their claims,
28

1 assuming that their unverified claims were valid. The Defendant BROKER SOLUTIONS,
2 INC. DBA NEW AMERICAN FUNDING are trespassers because of abuse of legal process
3 and are presenting themselves as mortgage creditors even though they are not mortgage
4 creditors because of the false representations discussed above. The Defendant
5 EARTHSCAPE INVESTMENTS, LLC has purchased the subject property from a trustee
6 who was appointed by BROKERS SOLUTIONS, INC. DBA NEW AMERICAN
7 FUNDING, who has no standing and capacity to appoint a Substitute Trustee as a stranger to
8 the transaction as a non-assignee. Consequently, EARTHSCAPE INVESTMENT, INC.
9 purchased the subject property from a trustee that lacks standing and capacity. The
10 Defendants are causal agents of the trespass because of the broken chain of title and the
11 failure to disclose the identity of the assignee.
12

13 80. A man is a trespasser by his own direct action when he acts without any excuse; or he
14 may be a trespasser in the execution of a legal process in an illegal manner; 1 Chit. Pl. 183: 2
15 John. Cas. 27; or when the court has no jurisdiction over the subject-matter when the court
16 has jurisdiction but the proceeding is defective and void; when the process has been
17 misapplied, as, when the defendant has taken A's goods on an execution against B; when the
18 process has been abused 1 Chit. Pl. 183-187 in all these cases a man is a trespasser ab initio.
19 And a person capable of giving his assent may become a trespasser, by an act subsequent to
20 the tort. If, for example, a man takes possession of land for the use of another, the latter may
21 afterwards recognize and adopt the act; by so doing, he places himself in the situation of one
22 who had previously commanded it, and consequently is himself a trespasser, if the other had
23 no right to enter, nor he to command the entry. 4 Inst. 317; Ham. N. P. 215. Vide 1 Rawle's
24 R. 121.
25
26

27 Bouvier's Law Dictionary, 1856. *Please note this is not a convoluted explanation of*
28

1 *the rationale and legal foundation for the Action of Trespass as suggested by the*
2 *magistrate. It is derived from Cal Jur and Bouvier's Law Dictionary. Force and*
3 *violence will be used by the Defendants if a mortgage foreclosure occurs, when the*
4 *Sheriff is used to enforce the wrongful actions of foreclosure.*

5 6 7 **SIXTH CAUSE OF ACTION**

8 Action of Trover

9 **Against BROKERS SOLUTIONS, INC., DBA NEW AMERICAN FUNDING,**
10 **EARTHSCAPE INVESTMENTS, LLC**

11
12 81. The Plaintiffs do hereby incorporate by reference all of the previous paragraphs in
13 this claim as if fully incorporated herein.

14 82. The Defendants are seeking possession of the subject property by way of a flawed
15 and defective document, and Assignment of Deed of Trust, which is void and unenforceable,
16 see Yvanova v. New Century Mortgage, supra. Please see also, **Exhibit D**, attached and
17 incorporated by reference, a copy of the flawed and defective assignment of the deed of trust.

18
19 83. The Defendants seek title to the subject property even though they have not been
20 assigned the mortgage as discussed above. and by way of the flawed and defective Deed of
21 Trust, as discussed above, which if successfully obtained will give them flawed and defective
22 and fraudulent title to the property as a stranger to the transaction as discussed above.
23 Consequently, the Defendants are the causal agents of the trover, having sold the note and
24 Deed of Trust to a third party without full disclosure as required under Title 15 US Code, §§
25 1641(f) and 1641(g). The Defendants do not have a lawful claim to title to the subject
26 property, for reasons previously stated.
27
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84. The law does not allow title to be granted to someone with unverified claims. **And it has been decided that trover lies for title deeds; 2 Yeates, R. 537; and for a copy of a record. Hardr. 111. Vide 2 T. R. 788; 2 Salk. 654; 2 New Rep. 170; 3 Campb. 417; 3 Johns. R. 432; 10 Johns. R. 172; 12 Johns. R. 484; 6 Mass. R. 394; 17 Serg. & Rawle, 285; 2 Rawle, R. 241. The above references are from Bouvier's Law Dictionary, 1856 Edition. The Fourth Amendment prohibits any claims to result in the issuance of a court order unless the claimant has verified their claim with an oath or affirmation, see Ex Parte Burford 7 US 448 (1806); Kalina v. Fletcher, 552 US 118 (1997); Soldal v. Cook County, Illinois, 506 U.S. 56, 113 S. Ct. 538, (1992); 121 L. Ed 450.**

85. I seek a court order of cease and desist ordering the Defendants to stand down and cease any and all attempts to collect the mortgage debt without an actual assignment of the note and deed of trust executed by the original lender. The Defendants do not have any right, title or interest in the subject property based upon the foregoing and especially where they have recorded flawed and defective documents that forms the foundation for their claim for ownership of the subject property. The flawed and defective Deed of Trust described above, gives us further documentation of the Defendants flawed and deceptive claim to ownership of the promissory note and deed of trust, as discussed above.

IX. PRAYER FOR RELIEF

86. WHEREOF, pursuant to the statutes at Title 15 US Code, Sections 1640 et seq and 1641 et Seq. , Plaintiffs request judgment against all named Defendants as follows:

1. That this Honorable Court *liberally* construe the TILA laws enumerated above-herein.

1 2. That all Defendants and all their directors, officers, employees, agents,
2 servants and all other *persons* in active concert or in participation with them, be
3 enjoined *temporarily* during pendency of this action, and *permanently* thereafter, from
4 evicting the Plaintiff from his home;

5 3. That all Defendants be required to account for all gains, profits, and
6 advantages derived from their violation(s) of applicable State and federal law(s);

7 4. That judgment be entered for Plaintiffs and against all Defendants for
8 Plaintiffs' actual damages, and for any gains, profits, or advantages attributable to all
9 violations of the TILA Laws according to the best available proof;

10 5. That all Defendants pay to Plaintiffs all damages sustained by Plaintiffs in
11 consequence of Defendants' several violations of the TILA Laws according to the best
12 available proof;

13 6. That all Defendants pay to Plaintiffs Their costs of the lawsuit incurred
14 herein including, but not limited to, all necessary research, all non-judicial enforcement,
15 and all reasonable attorneys' fees;

16 7. That all damages caused by all Defendants, and all gains, profits, and
17 advantages derived by all Defendants, from their several acts of and from all other
18 violation(s) of applicable State and federal law(s), be deemed to be held in constructive
19 trust, legally foreign with respect to the federal zone [*sic*], for the benefit of Plaintiffs, Their
20 heirs and assigns;

21 8. Ordering Defendants to pay the amounts petitioned for in the First Cause of
22 Action for the Claims for the violation of the TILA violation and other provisions of
23 Federal law cited in that section;

1 9. Awarding pre- and post-judgment interest on the monies wrongfully
2 obtained from the date of collection through the date of entry judgment in this
3 action;

4 10. An order to quiet Title and declaring the Defendants' foreclosure on
5 Plaintiffs' property void;

6 11. For a determination as to whether the acts of the Defendants are violative of
7 the Hobbs Act (18 U.S.C. § 1951), which prohibits actual or attempted robbery or
8 extortion affecting interstate or foreign commerce, and also conspiracy to violate (18
9 U.S.C. § 1951) at §371, "which proscribes conspiracy to commit robbery or
10 extortion without reference to the conspiracy statute";

11 12. For a determination as to sanction or additional monetary award to Plaintiffs
12 from Defendants for violating 18 U.S.C. § 1001 — Statements or entries generally;
13 (2) 18 U.S.C. § 1010 — HUD and Federal Housing Administration transactions; (3)
14 18 U.S.C. § 1014 — Loan and credit applications generally; (4) 18 U.S.C. § 1028 —
15 Fraud and related activity in connection with identification documents; (5) 18
16 U.S.C. § 1341 — Frauds and swindles by mail; (6) 18 U.S.C. § 1342 — Fictitious
17 name or address; (7) 18 U.S.C. § 1343 — Fraud by wire; and (8) 18 U.S.C. § 1344 —
18 Bank Fraud. See FBI Mortgage Fraud Notice (available at
19 <http://www.mbaa.org/FBIMortgageFraudWarning.htm>); see, also, Truth in
20 Lending Act, title I of the Consumer Credit Protection Act, as amended, 15 U.S.C. §
21 1601 et seq. More importantly, see the U.S. Supreme Court holding in Carpenter v.
22 Longan, Supra, as discussed.
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1 13. For an order to show Plaintiffs, in their capacity as Private Attorneys
2 General, how their complaint is deficient, how to correct said deficiency, and
3 thereafter grant them leave to file an amended complaint; and

4 14. For such other and further relief and monetary sanctions against the
5 Defendants for fraud as this Honorable Court deems just and proper under the
6 circumstances of this case.

7 15. I ask for \$50,000.00 for punitive damages for oppression, fraud and malice
8 from BROKERS SOLUTIONS, INC, DBA NEW AMERICAN FUNDING, since
9 they knew or should have known that there are numerous violations of the Truth In
10 Lending Act and their either knew or should have known that they do not have
11 standing to foreclose, and they are foreclosing on Andrew Lloyd Barker, without
12 lawful standing, as a stranger to the transaction.
13

14
15 XI. DEMAND FOR A TRIAL BY JURY
16

17 87. Plaintiffs hereby demand a trial by Jury of their claims by jury to the extent
18 authorized by law.
19

20 Dated: August 20th 2022

21
22 By: _____
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VERIFICATION

I have read the **Adversary Proceeding** and know the contents thereof to be true; and the same is true of my own knowledge, except to the matters, which are therein stated on my information and belief, and as to those matters, I believe them to be true. The foregoing is true, correct, complete and not misleading.

Sealed by the voluntary act of my own hand on this 20th day of the August
month, in the Year of our Lord, two thousand and twenty-two.



Andrew Lloyd Barker

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EXHIBITS LIST

EXHIBIT A

**COPY OF THE WRITTEN REQUESTS FOR THE NAME
AND ADDRESS OF THE ASSIGNEE OF THE BARKER
LOAN**

EXHIBIT B

ASSIGNMENT OF DEED OF TRUST

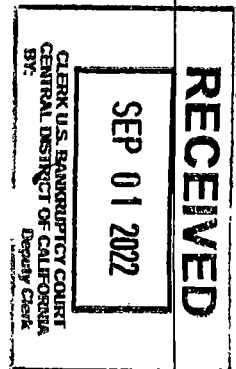
EXHIBIT C

**SECTION OF THE MAIN WEBPAGE FOR
BROKERS SOLUTIONS, INC. DBA NEW AMERICAN
FOUNDATIONS**

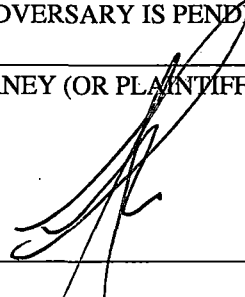
EXHIBIT D

**COPY OF THE ASSIGNMENT OF DEED OF TRUST,
NOTICE OF DEFAULT, NOTICE OF TRUSTEES SALE,
TRUSTEES DEED UPON SALE**

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)		
PLAINTIFFS ANDREW LLOYD BARKER <i>on behalf of the estate of Andrew Lloyd Barker</i> <i>ALB</i>		DEFENDANTS BROKER SOLUTIONS INC. DBA NEW AMERICAN FUNDING, EARTHSCAPE INVESTMENTS, LLC, LA COUNTY SHERIFF		
ATTORNEYS (Firm Name, Address, and Telephone No.)		ATTORNEYS (If Known)		
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee		PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee		
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) DECLARATORY AND INJUNCTIVE RELIEF UNDER TITLE 28 US CODE § 2201 AND 2202, TITLE 15 US CODE § 1641(f), Action to Quiet Title, Action Of Trover, Wrongful Foreclosure, Breach of Fiduciary Duty, Action of Trespass				
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table border="0"><tbody><tr><td style="vertical-align: top;">FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input checked="" type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)</td><td style="vertical-align: top;">FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input checked="" type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)</td></tr></tbody></table>			FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input checked="" type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input checked="" type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input checked="" type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23		
<input checked="" type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$		
Other Relief Sought				



B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR ANDREW LLOYD BARKER	BANKRUPTCY CASE NO.	
DISTRICT IN WHICH CASE IS PENDING	DIVISION OFFICE	NAME OF JUDGE
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 8/20/2022	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Andrew Lloyd Barker	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.